

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	}	
Plaintiff,		NO. CR-05-061-JLQ
vs.		ORDER ON MOTIONS
BIFFER A. WELLENDORF,		
Defendant		

A hearing on pending motions was held on June 20, 2005. This Order is intended to memorialize the oral rulings of the court. Assistant United States Attorney George J.C. Jacobs appeared on behalf of Plaintiff. Defendant Biffer A Wellendorf appeared personally and through his attorney Gerald R. Smith. **It Is Hereby Ordered:**

1. Defendant's Requests that he not be referred to as a Defendant are **Denied**.
2. Defendant's Notice of Appearance and Revocation of Power of Attorney (Ct. Rec. 53) is **Granted**. At the prior hearing and at this hearing, Defendant was thoroughly advised of the risks and pitfalls of representing himself and was informed that, in the court's opinion, it is not in a Defendant's best interest to represent himself. However, Defendant knowingly invoked his Constitutional right to represent himself in this matter. Defendant may confer with Mr. Smith, his previously appointed attorney, prior to trial and Mr. Smith shall remain in the courtroom during the trial. Defendant may confer with Mr. Smith during court recesses only. Defendant shall be completely in charge of his defense in this case.
3. Defendant's Motion to Strike Promise to Appear (Ct. Rec. 55) is **Denied**.
4. Defendant's Motion to Alter or Amend Ruling Denying the Right of Intervention (Ct. Rec. 61) is **Denied**.
5. Plaintiff's Motion to use Bank Deposit Method of Proof, Summary Charts, and

1 Banks Deposits Composition is **Reserved**. The court will rule at trial whether the
2 Government has made a sufficient showing to submit these theories and documents to the
3 jury, provided that if Summary Charts are allowed, they shall not be admitted in evidence
4 nor utilized by the jury during deliberations.

5 6. Plaintiff's Motion in Limine Precluding Defendant from presenting evidence or
6 argument that the tax laws are unconstitutional or invalid (Ct. Rec. 47) is **Granted**.

7 7. Plaintiff's Motion in Limine Regarding Use of the Term "Tax Protester" and
8 "Tax Protester Activities" (Ct. Rec. 64) is **Granted in Part and Denied in Part**. The
9 Government shall not refer to the Defendant as a "Tax Protester", pending further ruling
10 of the court. However, the Government may refer to documents as "tax protesting type"
11 documents. Evidence that Defendant failed to comply with IRS subpoenas and/or court
12 orders is admissible. However, the Government shall not introduce evidence that
13 Defendant was held in contempt of court.

14 8. Defendant's Demand for Trial by Jury is **Granted**. Defendant then informed
15 the court that he may wish to waive a jury in this case. Defendant shall confer with Mr.
16 Smith and inform the court whether he wishes to waive a jury on or before July 5, 2005.
17 Plaintiff shall also inform the court of any objection to waiver of the jury within five days
18 of the Defendant's statement re: waiver.

19 9. Defendant's Objection to Bill (Ct. Rec. 58) is **Denied**.

20 10. Defendant's Objection for the Record, Offer of Proof (Ct. Rec. 66) is **Denied**.

21 11. Defendant's many submittals of Freedom of Information Act demands are
22 **Denied**. The Freedom of Information Act does not apply to criminal prosecutions.

23 **IT IS SO ORDERED.** The Clerk is further directed to enter this Order and
24 forward copies to counsel and to Dr. Wellendorf.

25 **DATED** this 20th day of June, 2005.

26 s/ Justin L. Quackenbush

27 JUSTIN L. QUACKENBUSH
28 SENIOR UNITED STATES DISTRICT JUDGE